

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS, WESTERN DIVISION**

**IN RE:**

Alina Szarko

Debtor(s)

Case No.: 09 B 75106

Chapter: 7

Hearing Date: 12/16/09

Judge Manuel Barbosa

**NOTICE OF MOTION**

**TO:** Megan Heeg, Interim Trustee, POB 447-215 E. First Street Ste. 100, Dixon, IL 61021 by electronic notice through ECF  
Alina Szarko, Debtor(s), 4520 Heron Dr, Lake in the Hills, IL 60156  
David H. Cutler, Attorney for Debtor(s), 8430 Gross Point Rd., Suite 201, Skokie, IL 60077 by electronic notice through ECF

PLEASE TAKE NOTICE that on the 12/16/09, at 9:30am, or as soon thereafter as counsel may be heard, I shall appear before the Honorable Judge Manuel Barbosa, Bankruptcy Judge, in the courtroom usually occupied by him/her at the 211 S. Court Street, Rockford, Illinois, room 115, or before any other Bankruptcy Judge who may be sitting in his/her place and stead, and shall then and there present this Motion of the undersigned, a copy of which is attached hereto and herewith served upon you, and shall pray for the entry of an Order in compliance therewith, at which time you may appear if you so desire.

**PROOF OF SERVICE**

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached Motion upon the parties listed above, as to the Trustee and Debtor's attorney via electronic notice on December 2, 2009 and as to the debtor by causing same to be mailed in a properly addressed envelope, postage prepaid, from 7140 Monroe Street, Willowbrook, IL 60527 before the hour of 5:00 PM on December 2, 2009.

/s/ Joel P. Fonferko

Attorney for Movant

Berton J. Maley ARDC#6209399  
Gloria C. Tsotsos ARDC# 6274279  
Jose G. Moreno ARDC#6229900  
Rachael A. Stokas ARDC#6276349  
Peter C. Bastianen ARDC#6244346  
Joel P. Fonferko ARDC#6276490  
Maria A. Georgopoulos ARDC#6281450  
**Codilis & Associates, P.C.**  
15W030 North Frontage Road, Suite 100  
Burr Ridge, IL 60527  
(630) 794-5300  
**C&A FILE (14-09-39281)**

NOTE: Pursuant to the Fair Debt Collection Practices Act you are advised that this law firm is deemed to be a debt collector attempting to collect a debt and any information obtained will be used for that purpose.

**CERTIFICATE OF SERVICE**

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/s/ Joel P. Fonferko

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**MOTION FOR RELIEF FROM THE AUTOMATIC STAY**

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**NOW COMES** BAC HOME LOANS SERVICING, L.P. (hereinafter "Movant"), by and through its attorneys, Codilis & Associates, P.C., and moves this Honorable Court pursuant to 11 U.S.C. §362(d) for an Order granting Movant relief from the automatic stay, and in support thereof states as follows:

1. This Court has jurisdiction pursuant to 28 U.S.C. §1334 and General Rule 2.33 of the United States District Court for the Northern District of Illinois;
2. The Debtor is indebted to Movant for which the Movant claims a valid security interest in the property commonly known as 4520 Heron Drive, Lake in the Hills, IL;
3. This security interest arose from a Note and Mortgage, executed on 11/19/2004, in the amount of \$252,900.00;
4. Enforcement of this security interest has been stayed automatically by operation of 11 U.S.C. §362 of the Bankruptcy Code upon Debtor filing of this petition on 11/18/09;
5. Movant is entitled to relief from the automatic stay under 11 U.S.C. §362(d) for the following reasons:
  - a) The Debtor is in default in the performance of the terms and conditions of

said Note and Mortgage and are contractually due for the 9/1/09, payment with an approximate default as of 12/1/09, in the amount of \$7,894.32, including post-petition attorney fees and costs;

b) The Estimated Payoff amount is \$236,720.40. The Estimated fair market value of the property is \$300,000.00, per Debtor's Schedules. That to the best of Movant's knowledge, no non-exempt equity exists in the subject property or any equity that does exist is so insubstantial as to be of little or no benefit or burdensome to the estate;

c) The above is especially true when considering the cost of selling the property, as outlined below:

Fair Market Value: \$300,000.00

Less Lien Payoff and Cost of Sale:

Estimated Payoff: \$236,720.40

Payoff of Other Liens: \$76,257.00

Broker's Commission (6% of FMV): \$18,000.00

Other Closing Costs (estimated): \$2,000.00

Net Proceeds of Sale: (\$32,977.40)

(assuming no capital gains need to be paid)

(Please note: From these proceeds, Debtor(s) would be entitled to be paid \$15,000.00 representing the homestead exemption)

6. Movant has incurred attorney fees and/or costs in connection with this bankruptcy proceeding which have been included in the calculation of any default figures quoted herein subject to court approval, including:

\$500.00 for Preparation of Notice and Motion for Relief  
from the Automatic Stay, One Court Appearance

\$150.00 for Court filing fee

7. This Court has authority to order that Rule 4001(a)(3) is not applicable to the order entered in granting this motion, and Movant requests this Court so order;

**WHEREFORE**, BAC HOME LOANS SERVICING, L.P. prays this Court enter an Order pursuant to 11 U.S.C. §362(d) modifying the automatic stay as to Movant, allowing the fees and costs described herein to be added to the indebtedness pursuant to the terms of the note and mortgage, and for such other and further relief as this Court may deem just and proper.

Dated this December 2, 2009.

Respectfully Submitted,

Codilis & Associates, P.C.

By: /s/ Joel P. Fonferko

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